



IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

Attorney Docket No. 047711-0285

In re patent application of

John F. Gray et al.

Group Art Unit: 3763

Appl. No. 10/033,722

Examiner: Michael E. Hayes

Filing Date: 10/27/2001

For: INFUSION DEVICE AND DRIVING MECHANISM FOR SAME

**CERTIFICATE OF MAILING BY EXPRESS MAIL**

Commissioner for Patents  
P.O. Box 1450  
Alexandria, Virginia 22313-1450

Commissioner:

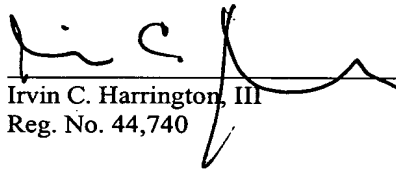
I hereby certify that the following paper(s) and/or fee along with any attachments referred to or identified as being attached or enclosed are being deposited with the United States Postal Service as Express Mail (Express Mail Label No. EV420554693US) under 37 C.F.R. § 1.10 on the date of deposit shown below with sufficient postage and in an envelope addressed to the Commissioner for Patents, P.O. Box 1450, Alexandria, Virginia 22313-1450.

1. Petition to Withdraw Holding of Abandonment
2. Exhibit 1 which consists of: Copy of stamped postcard from PTO, Amendment Transmittal, Amendment and Reply Under 37 C.F.R. § 1.111 and Certificate of Mailing
3. Postcard

Respectfully submitted,

June 16, 2004  
Date

Foley & Lardner LLP  
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Los Angeles, CA 90067-3021  
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6-18-04

DIC  
6p/3763

Atty. Dkt. No. 047711-0285

**IN THE UNITED STATES PATENT AND TRADEMARK OFFICE**

#15

Applicant: John F. Gray et al.  
Title: INFUSION DEVICE AND  
DRIVING MECHANISM FOR  
SAME  
Appl. No.: 10/033,722  
Filing Date: 10/27/2001  
Examiner: Michael E. Hayes  
Art Unit: 3763

PETITION TO WITHDRAW HOLDING OF ABANDONMENT

Commissioner for Patents  
PO Box 1450  
Alexandria, Virginia 22313-1450

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Sir:

Applicant hereby petitions for withdrawal of the holding of abandonment pursuant to 37 C.F.R. §1.181(a). A Notice of Abandonment was issued on June 1, 2004.

A. Petition and Fee Submitted

This Petition requires no fee pursuant to MPEP 711.03(c), subsection I. In the event the Examiner determines a fee is required, please charge any such fee to our Deposit Account No. 50-0872. The Examiner is authorized to review this Petition under MPEP 1004.

B. Statement of Facts

1. On December 27, 2001, Applicant filed the subject application. The application was subsequently assigned serial number 10/033,722.

2. On October 24, 2003, the Examiner issued a non-final Office Action touching on the merits.

3. On Monday, January 26, 2004, Applicant filed a response to the Office Action of October 24, 2003. Applicant's filing included an Amendment and Reply, a Transmittal, a Certificate of Mailing and a Return Postcard. Because the shortened statutory period for reply ended on Saturday, January 24, 2004, Applicant's Amendment and Reply was timely filed within the shortened statutory period. Applicant subsequently received the Return Postcard date-stamped by the PTO, indicating receipt of the Amendment and Reply, the Transmittal and the Certificate of Mailing by the PTO on January 29, 2004. A copy of the Amendment and Reply, the Transmittal, the Certificate of Mailing and the date-stamped Return Postcard is shown in Exhibit 1.

4. The Amendment and Reply, the Transmittal, the Certificate of Mailing and the Return Postcard included a typographical error in the application serial number. The application serial number shown on the Amendment and Reply, the Transmittal, the Certificate of Mailing and the Return Postcard is 10/033,772. The correct application serial number is 10/033,722.

5. On June 1, 2004, the Examiner issued a Notice of Abandonment, stating that the application is abandoned in view of Applicant's failure to timely file a proper reply to the Office letter mailed on October 24, 2003. The Examiner indicated that no reply had been received.

6. Upon receipt of the Notice of Abandonment, Applicant promptly placed calls to the Examiner. On June 15, 2004, Applicant initiated a telephonic conference with the Supervising Examiner, Brian Casler, regarding the Notice of Abandonment, during which Applicant and Examiner Casler determined that the filing of this Petition would be appropriate.

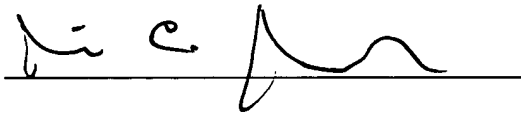
C. Request For Relief

Because Applicant did, in fact, timely file a reply to the Office Action of October 24, 2004, Applicant respectfully requests that this Petition to Withdraw Holding of Abandonment be granted and that the application undergo further examination based on the Amendment and Reply filed January 26, 2004.

The Commissioner is hereby authorized to charge any additional fees which may be required regarding this application under 37 C.F.R. §§ 1.16-1.17, or credit any overpayment, to Deposit Account No. 05-0872. Should no proper payment be enclosed herewith, as by a check being in the wrong amount, unsigned, post-dated, otherwise improper or informal or even entirely missing, the Commissioner is authorized to charge the unpaid amount to Deposit Account No. 05-0872. If any extensions of time are needed for timely acceptance of papers submitted herewith, Applicant hereby petitions for such extension under 37 C.F.R. §1.136 and authorizes payment of any such extensions fees to Deposit Account No. 05-0872.

Respectfully submitted,

Date June 16, 2004

By 

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